

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TRISHKA LAMPKIN and ROBERT
CORTEZ,

Plaintiffs,

v.

SUPERIOR COURT OF CALIFORNIA
and MATTHEW CORTEZ,

Defendants.

No. 2:20-cv-01204-JAM-JDP

**ORDER GRANTING MOTION TO
DISMISS, DENYING LEAVE TO AMEND,
AND ORDERING SANCTIONS**

I. PROCEDURAL BACKGROUND

Before the Court is defendant Superior Court of California's ("Superior Court") motion to dismiss ("Motion") Trishka Lampkin and Robert Cortez's ("Plaintiffs") first amended complaint ("FAC"). See Mot., ECF No. 66. Superior Court argues the Court lacks subject matter jurisdiction over it under the Eleventh Amendment. Id. Superior Court requests the Court dismiss the claims against it without leave to amend or, in the alternative, strike Plaintiffs' allegations related to Superior Court. Id. Plaintiffs filed a nonopposition, agreeing that the Eleventh Amendment bars suit against Superior Court. Nonopp'n, ECF

1 No. 67. Plaintiffs concede to dismissal of the suit as to
2 Superior Court, however, request leave to amend the FAC to add a
3 Superior Court official in his or her official capacity as a new
4 party. Id. at 3:1-2. Plaintiffs have not identified the
5 official they seek to add, nor have they provided a copy of a
6 proposed second amended complaint. Superior Court filed a reply,
7 twelve (12) pages in length, opposing Plaintiffs' request for
8 leave to amend. Reply, ECF No. 68.

9 Given Plaintiffs' concession that Superior Court should be
10 dismissed, the Court GRANTS Superior Court's motion to dismiss
11 claims against it with prejudice. For the reasons set forth
12 below, the Court DENIES Plaintiffs' request for leave to amend.

13 II. OPINION

14 A. Parties' Failure to Comply with Court Orders and Local Rules

15 Upon review of the Motion, documents filed in support of the
16 Motion, and Plaintiffs' request for leave to amend, the parties
17 have failed to comply with prior orders of the Court and this
18 District's Local Rules. Pursuant to Local Rule 110, the failure
19 of a party to comply with any order of the Court or the Local
20 Rules may be grounds for the imposition of sanctions. The Court
21 addresses the violations below.

22 1. Plaintiffs' Addition of Superior Court as a Defendant

23 On March 29, 2023, the Court issued an order dismissing
24 Plaintiffs' claims against defendant Matthew Cortez. Order
25 Denying Pls.' Mot. for Default Judgment, ECF No. 59. The order
26 stated, "plaintiffs' claims against Cortez are dismissed with
27 leave to amend for failure to state a claim." Id. at 2:3-4.
28 Further, the Court ordered, "Plaintiffs are granted thirty days

1 from the date of this order to file and serve an amended
2 complaint if they so choose. If Plaintiffs conclude that there
3 are no claims that can be brought against Matthew Cortez they
4 should so inform the Court and this matter will be closed." Id.
5 at 2:10-12.

6 Plaintiffs argue the March 29, 2023 order "did not restrict
7 the amendment to only the claims of Cortez." Nonnopp'n at 4:19-
8 20. The Court disagrees. The order was specific in allowing
9 Plaintiffs to cure deficiencies as to the claims against Matthew
10 Cortez only. "When the language of an order clearly states that
11 a plaintiff may only amend to address certain deficiencies
12 identified in the order, courts have held that a plaintiff is
13 barred from adding new claims or parties." Jameson Beach Prop.
14 Owners Ass'n v. United States, No. 2:13-CV-01025-MCE-AC, 2014 WL
15 4925253, at *4 (E.D. Cal. Sept. 29, 2014) (citing Benton v. Baker
16 Hughes, No. CV 12-07735 MMM MRWX, 2013 WL 3353636, at *3 (C.D.
17 Cal. June 30, 2013), aff'd sub nom. Benton v. Hughes,
18 623 F. App'x 888 (9th Cir. 2015) and DeLeon v. Wells Fargo Bank,
19 N.A., No. 10-CV-01390-LHK, 2010 WL 4285006, at *3 (N.D. Cal.
20 Oct. 22, 2010). Plaintiffs, however, amended their complaint to
21 add Superior Court as a new party. See FAC. By adding a new
22 party, Plaintiffs did not comply with the Court's March 29, 2023
23 order. Given Plaintiffs' concession to dismissal of Superior
24 Court, the Court does not find sanctions are warranted at this
25 time.

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1 2. Plaintiffs' Failure to Provide the Court a Copy of Their
2 Proposed Second Amended Complaint

3 Federal Rules of Civil Procedure Rule 15(a) governs the
4 amendment of pleadings and applies where a plaintiff "expressly
5 requests" to amend their complaint. Balistreri v. Pacifica
6 Police Dep't, 901 F.2d 696, 701 (9th Cir. 1988). A plaintiff's
7 request does not have to be through separate formal motion. Id.
8 Here, Plaintiffs' nonopposition requests leave to amend the FAC.
9 See Nonopp. Although Plaintiffs' request is not by formal
10 motion, the Court finds Plaintiffs' express request in their
11 nonopposition as sufficient.

12 Under Local Rule 137(c), if filing a document requires leave
13 of court, such as an amended complaint, counsel shall attach the
14 document proposed to be filed as an exhibit. "When a party fails
15 to comply with Local Rule 137(c), the party's request should be
16 denied." Herrera v. California Highway Patrol, No.
17 115CV01882TLNSAB, 2017 WL 590244, at *2 (E.D. Cal. Feb. 14,
18 2017); See also Waters v. Weyerhaeuser Mortg. Co., 582 F.2d 503,
19 507 (9th Cir. 1978) (stating it is the discretion of the court to
20 deny leave to amend for failure to comply with a local rule
21 requiring the proposed amendment be attached).

22 Here, Plaintiffs failed to attach a copy of their proposed
23 second amended complaint. From review of their request for leave
24 to amend, it appears Plaintiffs' second amended complaint may
25 simply swap out Superior Court from the FAC with an unnamed
26 Superior Court official. See Nonopp'n at 11-12. However, the
27 Court cannot make rulings based on mere assumptions and
28 speculations of what the amendments may be. Absent a copy of the

1 proposed pleading, the court cannot determine whether their
2 second amended complaint meets the procedural and substantive
3 requirements of Rule 15. The Plaintiffs' request for leave to
4 amend the FAC is DENIED.

5 3. Superior Court's Twelve (12) Page Reply Memoranda


6 Separately, Superior Court filed a twelve (12) page reply
7 memoranda. See Reply. Superior Court exceeded the Court's five
8 (5) page limit on reply memoranda. Order re Filing Requirements,
9 ECF No. 4-2. Violations of the Court's standing order require
10 the offending counsel (not the client) to pay \$50.00 per page
11 over the page limit to the Clerk of the Court. Id. Moreover,
12 the Court will not consider arguments made past the page limit.
13 Id.

14 III. ORDER

15 For the reasons set forth above, the Court GRANTS Superior
16 Court's Motion to Dismiss claims against it WITH prejudice. The
17 Court DENIES Plaintiffs' request for leave to amend the FAC.
18 Further, Superior Court is sanctioned \$350.00 payable to the
19 Clerk for the Eastern District of California no later than seven
20 (7) days from the date of this order.

21 IT IS SO ORDERED.

22 DATED: January 2, 2024

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25 JOHN A. MENDEZ
26 SENIOR UNITED STATES DISTRICT JUDGE
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